IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 18694 of 2004

Between:

Shyam Manohar, S/o. Rajesham,
H.No.13-4-26/1, Babu Camp, Bellampalli (Po), Adilabad District.

..... PETITIONER

AND

1 The General Manager, Singareni Collieries Company Limited,
Bellampalli, Adilabad District.
2 The Superintending Engineer, Area Workshop, Singareni Collieries Company Limited, Bellampalli, Adilabad District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue Writ, or Order, or Direction especially in the nature of Writ of Mandamus declaring the action of the respondents, in transferring the petitioner from surface (Workshop) to Underground (Goleti 1 Incline) after 26 years of service on surface, with out notice, enquiry, while retaining 15 of his Juniors at the Workshop as illegal and unjust and in consequence direct the respondents to continue the Petitioner in the 2nd respondent Workshop,

Counsel for the Petitioner: MR.R.N.REDDY

Counsel for the Respondents : MR.N.KRISHNA RAO

The Court made the following :

ORAL ORDER:

This writ petition is filed seeking a Mandamus to declare the action of the respondents in transferring the petitioner from Surface (Workshop) to Underground (Goleti Incline) after 26 years of service on Surface, without any notice or enquiry, while retaining 15 employees of his juniors at the workshops as illegal and arbitrary.

The respondents filed their counter affidavit on 15.12.2004. Though, this Court granted thirteen adjournments, the petitioner did not turn up and argue the matter. Perused the material on record.

There cannot be any dispute that transfer is not only an incident of service but also one of the service conditions. Unless the transfer order is actuated by malice, or made by way of punishment or is contrary to the Rules, the same cannot be challenged. As seen from the impugned proceedings, dated 19.6.2003, the petitioner, along with some others were transferred to work at GOLETI, 1-A Inc. in their present category. Consequent upon the transfer, it is also made clear that there will not be any change in the present service conditions,

Grade/Category and rate of pay except that they will be governed by the hours of work, holidays, etc. The ground mentioned in the affidavit is that no notice is given before transferring the petitioner, which is in violation of principles of natural justice. It is also stated that transferring the petitioner from the workshop on the surface to the Underground Mine amounts to change of service conditions as contemplated under Section 9-A of the Industrial Disputes Act, 1947. It is also stated that simply because he has been working on surface for the last 26 years continuously it does not mean that the petitioner can be transferred anywhere. It is also stated that some of his juniors are still working on the surface, but it cannot be treated as a ground. The transfer is only an incident of service. Therefore, the petitioner cannot have any right whatsoever and the writ petition is devoid of merit and is liable to be dismissed.

The writ petition is accordingly dismissed. In the circumstances of the case, there shall be no order as to costs.

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(K.C. BHANU, J.)

10th February, 2005.

bcj

To

1 The General Manager, Singareni Collieries Company Limited,
Bellampalli, Adilabad District.
2 The Superintending Engineer, Area Workshop, Singareni Collieries Company Limited,
Bellampalli, Adilabad District.

3 Two C.D. copies.